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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/834,924	04/13/2001	George Harry Hoffman	41556/04005/RS11P100	5452
22428	7590	03/24/2005	EXAMINER	
FOLEY AND LARDNER SUITE 500 3000 K STREET NW WASHINGTON, DC 20007			COLON, CATHERINE M	
			ART UNIT	PAPER NUMBER
			3623	

DATE MAILED: 03/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/834,924

Applicant(s)

HOFFMAN ET AL.

Examiner

C. Michelle Colon

Art Unit

3623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 April 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 9/7/01, 10/11/02, 1/26/03, 6/3/03
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. The following is a Non-Final Office Action in response to the communication received on April 13, 2001. Claims 1-20 are now pending in this application.

Information Disclosure Statement

2. The examiner has reviewed the patents and publications supplied in the Information Disclosure Statements (IDS) provided on September 7, 2001, October 11, 2002, January 28, 2003 and June 3, 2003.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-11, 13-18 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Aycock et al. (U.S. 5,765,138).

As per claim 1, Aycock et al. discloses a method for distributor/supplier selection in a supply chain utilizing a network, comprising the acts of:

collecting information relating to a plurality distributors/suppliers of a supply chain (col. 5, lines 14-19; col. 12, lines 37-44; Figures 1 and 3; The system collects information from distributors/suppliers via an RFP process.);

selecting at least one of the distributors/suppliers based on the collected

information (col. 7, lines 46-56; The user can select a distributor/supplier based on evaluating the information received during the RFP process.);

populating a contract based on the selected distributors/suppliers, the contract mandating that the selected distributors/suppliers provide supply chain data (col. 3, lines 44-55; The distributors/suppliers are selected to comply to requirements for a specific project.); and

managing the supply chain utilizing the supply chain data (col. 9, lines 41-55; The supply chain is managed using existing distributor/supplier performance reports for distributor/supplier performance and reliability on current projects.).

As per claim 2, Aycock et al. discloses the method of claim 1, wherein the management of the supply chain includes tacking benchmark performance utilizing the supply chain data (col. 9, lines 41-55; The supply chain is managed using existing distributor/supplier performance reports for distributor/supplier performance and reliability on current projects.).

As per claim 3, Aycock et al. discloses the method of claim 1, wherein the management of the supply chain includes monitoring adherence to the contract utilizing the supply chain data (col. 9, lines 41-55; The supply chain is managed using existing distributor/supplier performance reports for distributor/supplier performance and reliability on current projects.).

As per claim 4, Aycock et al. discloses the method of claim 1, wherein the information is collected in response to a plurality of requests for proposal transmitted to the distributors/suppliers utilizing the network (col. 5, lines 14-19; col. 12, lines 37-44;

Figures 1 and 3; The system collects information from distributors/suppliers via an RFP process.).

As per claim 5, Aycock et al. discloses the method of claim 1, wherein the distributors/suppliers are selected based on a least cost analysis (col. 8, line 62-col. 9, line 2; The system allows users to perform a cost analysis on the distributors/suppliers based on risk.).

As per claim 6, Aycock et al. discloses the method of claim 5, wherein the least cost analysis involves entities selected from the group consisting of a price of product, a cost of shipping the product, and a cost of re-distribution of the product (col. 3, lines 9-13; col. 8, line 62-col. 9, line 2; Users can evaluate distributors/suppliers on a variety of factors including cost, distribution, serviceability and reliability of product/service.).

As per claim 7, Aycock et al. discloses the method of claim 5, wherein the least cost analysis involves a price of product, a cost of shipping the product, and a cost of re-distribution of the product (col. 3, lines 9-13; col. 8, line 62-col. 9, line 2; Users can evaluate distributors/suppliers on a variety of factors including cost, distribution, serviceability and reliability of product/service.).

As per claim 8, Aycock et al. discloses the method of claim 5, wherein the least cost analysis involves capacities of the distributors/suppliers and requirements of a plurality of outlets of the supply chain (col. 3, lines 9-13; col. 8, line 62-col. 9, line 2; Users can evaluate distributors/suppliers on a variety of factors including cost, distribution, serviceability and reliability of product/service.).

As per claim 9, Aycock et al. discloses the method of claim 5, wherein the least cost analysis includes a tiered least cost analysis (col. 5, lines 14-18; col. 7, line 61; Figure 1; The system uses a tiered analysis for selecting the distributors/suppliers.).

As per claim 10, Aycock et al. discloses the method of claim 5, wherein the least cost analysis is standardized (col. 8, line 62-col. 9, line 2; The same cost analysis is applied to all distributors/suppliers.).

As per claim 11, Aycock et al. discloses the method of claim 1, wherein the management of the supply chain includes collecting profit information utilizing the supply chain data in real-time (col. 6, line 3; col. 8, line 60).

Claims 13-18 and 20 recite substantially similar subject matter to claims 1-11 above. Therefore, claims 13-18 and 20 are rejected on the same basis as claims 1-11 above.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 12 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aycock et al. (U.S. 5,765,138).

As per claim 12, Aycock et al. does not expressly disclose the method of claim 1, wherein the management of the supply chain includes paying the selected distributors/suppliers rebates. However, it is old and well known that rebates are used as incentives to get buyers to purchase products. Therefore, at the time of the invention, it would have been obvious to a person of ordinary skill in the art to pay the selected distributors/suppliers rebates because doing so would incentivize the distributors/suppliers to respond to RFPs, thus increasing the pool available for a project.

Claim 19 recites substantially similar subject matter to claim 12 above. Therefore, claim 19 is rejected on the same basis as claim 12 above.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Callen (U.S. 6,556,976) discusses a system for ecommerce data management;
- Baseman et al. (U.S. 6,671,673) discusses a method for supply chain management;
- Kansal (U.S. 6,647,374) discusses a system and method of assessing vendor risk and pricing;
- Huang et al. (U.S. 5,953,707) discusses a decision support system of a supply chain; and

- Shkedy (U.S. 6,260,024) discusses a method for facilitating buyer-driven purchase orders.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Michelle Tarae (formerly, C. Michelle Colon) whose telephone number is 703-605-4251. The examiner can normally be reached Monday – Friday from 8:30am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz, can be reached at 703-305-9643.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington D.C. 20231

or faxed to:

703-872-9306 [Official Communications; including After Final
communications labeled "Box AF"]

703-746-7202 [For status inquiries, draft communication, labeled
"Proposed" or "Draft"]

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal
Drive, Arlington, VA 7th floor receptionist.

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cmc

March 18, 2005

Susanna Diaz
SUSANNA M. DIAZ
PRIMARY EXAMINER
Au 3623